

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1692.01
COMPLAINT INVESTIGATOR: John Hill
DATE OF COMPLAINT: February 16, 2001
DATE OF REPORT: March 22, 2001
REQUEST FOR RECONSIDERATION: yes - no changes
DATE OF CLOSURE: June 29, 2001

COMPLAINT ISSUES:

Whether the Merrillville Community Schools and the Northwest Indiana Special Education Cooperative violated:

- 511 IC 7-29-8 with regard to the school's alleged failure to afford the protections of 511 IAC Article 7 to a student the school is deemed to have knowledge is a student with a disability at the time the school initiated disciplinary action against the student, specifically the protections of:
 - a. 511 IAC 7-29-1(d) with regard to the school's alleged suspension of a student with a disability from the student's current placement for more than 10 consecutive days;
 - b. 511 IAC 7-29-1(f) with regard to the school's alleged failure to provide services to a student with a disability that has been suspended for more than 10 cumulative instructional days in the same school year;
 - c. 511 IAC 7-29-2(b) with regard to the school's alleged failure to follow appropriate change of placement procedures as described in 511 IAC 7-27-5;
 - d. 511 IAC 7-29-5 with regard to the school's alleged failure to convene a case conference committee (CCC) meeting to develop a plan for assessing the student's functional behavior within 10 business days of suspending the student for more than 10 cumulative instructional days in a school year; and
 - e. 511 IAC 7-29-6 with regard to the school's alleged failure to convene a CCC meeting to conduct a manifestation determination within 10 instructional days of the date of a disciplinary removal that constituted a change of placement.

During the course of the investigation, the following additional issue was identified:

- 511 IAC 7-29-8(e) and 511 IAC 7-29-8(f) with regard to the school's alleged failure to conduct an "expedited evaluation" and CCC meeting within twenty instructional days from the date of the parent's written consent of an evaluation for a student subject to expulsion.

One extension of time was granted in this investigation because of the complexity of the issues. The original deadline of March 16, 2001 was extended to March 30, 2001.

FINDINGS OF FACT:

1. The student is a sixteen-year-old, ninth-grader who was being evaluated for special education and

- related services at the time the complaint was filed.
2. On October 13, 2000, the student was suspended from school, pending expulsion. Prior to the October 13 suspension, the parent had neither requested an educational evaluation nor expressed any concern in writing to certified personnel that the student was in need of special education and related services. No school personnel had expressed concern to the local director of special education regarding the student's behavior or performance. School personnel characterized the student's misbehavior as willful and attention seeking and did not believe the behavior demonstrated the need for special education and related services
 3. The school received, on November 10, 2000, a letter from the parent, dated November 9, 2000, requesting that the student be evaluated for a possible Emotional Disability.
 4. The CCC convened on January 25, 2001, 40 instructional days after the parent's request for an evaluation of a student subjected to expulsion. The parent requested the CCC meeting be adjourned pending attendance of her attorney and the student.
 5. The CCC reconvened on February 6, 2001. The student was determined not eligible for special education and related services .

CONCLUSIONS:

1. Finding of Fact #2 reflects that the school was not deemed to have knowledge that the student was a student with a disability prior to the suspension and recommendation for expulsion. Finding of Fact #5 indicates that the CCC subsequently determined that the student was not eligible for special education and related services. Therefore, no violations of 511 IC 7-29-8, 511 IAC 7-29-1(d), 511 IAC 7-29-1(f), 511 IAC 7-29-2(b), 511 IAC 7-29-5, and 511 IAC 7-29-6 are found.
2. Findings of Facts #3 and #4 reflect that the school failed to conduct an "expedited evaluation" and convene a CCC meeting within twenty instructional days from the parent's written consent for an evaluation of a student subject to expulsion. Therefore, violations of 511 IAC 7-29-8(e) and 511 IAC 7-29-8(f) are found.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Merrillville Community Schools and the Northwest Indiana Special Education Cooperative shall:

1. In-service all appropriate staff regarding the requirements as specified in 511 IAC 7-29-8(e) and 511 IAC 7-29-8(f). Submit documentation to the Division that the in-service has been completed no later than April 30, 2001. The documentation must include a list or agenda of all issues discussed, any handouts that were distributed and a list of attendees by name and title.

DATE REPORT COMPLETED: March 22, 2001